REMARKS

The foregoing amendments and these remarks are in response to the Office Action dated October 26, 2005. This amendment is timely filed.

At the time of the Office Action, claims 1-6 were pending. In the Office Action, claims 1-3, 5 and 6 were rejected under 35 U.S.C. §103(a). The objections and rejections are discussed in more detail below.

I. Rejections to the claims based upon Art

Claims 1-3 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,658,710 to Quet et al. in view of U.S. Patent No. 5,355,780 to Campbell. Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art as applied to claim 1, and further in view of U.S. Patent No. 5,237,914 to Carstensen.

The Office Action asserts that it would have been obvious to one skilled in the art to modify the grill of Quet with that taught by Campbell, in order to prevent flames from passing between the grill bars during cooking. Applicant respectfully traverses this rejection.

When the Campbell prior art is studied carefully, it has seen that it has spacing between the bars of 1/8 inch (3.175mm) and a width of 3/16 inch (4.625mm). This spacing and width are not enough to cook foodstuffs with a grilling action as taught by the present application. With these narrower measurements, a grill cannot not cook meat and other foodstuffs so as to impart a pleasing taste in accordance with the teaching of the present invention, without flames passing through the grate.

In particular, Campbell states that "[f]or a given height of each of rails 24, it is possible to empirically determine a maximum spacing "S" between each of the rails which will not allow flames from open flame heat source 21 and/or a grease fire to pass through spacings "S" of grate 12. The phrase "through the spacings" or "through the grate" means that flames cannot pass entirely through spacings "S" between each of rails 24 to extend above upper surface 30 of grate 12. Any spacing between rails 24 less than the empirically determined maximum spacing "S" corresponding to a height of rails 24 will prevent flames from passing through grate 12, while allowing heat, smoke and grease to pass through grate 12. On the other hand, for a particular

common height of rails 24, a spacing between rails 24 greater than the empirically determined maximum spacing "S" will allow flames to pass through grate 12 and scorch foods being cooked thereon." Emphasis added.

As stated in the above paragraph, Campbell asserts that the spacing that will prevent flames from passing through grate while allowing heat, smoke and grease to pass through grate is determined from the height of the rails. But it is not stated or even hinted that disturbing smoke and flames are caused by the grease drops which drop between the grill bars. So the technical problem that is addressed by the present invention is not described clearly. Thus, the solution that prevents such undesired effects is not taught or suggested by Campbell. Campbell also teaches away from a spacing any wider than the 1/8 inch (3.175mm) described therein.

Campbell further states that "FIG. 3 illustrates one embodiment of the present invention showing a maximum spacing "S" corresponding to a particular common height of rails 24. Transverse support members 26 are not illustrated in FIGS. 4 and 5 for the sake of simplicity. Rails 24 have a height "H" and width "W". For purposes of establishing a maximum spacing "S", width "W" is of minor importance. However, width "W" may have significance for other purposes, e.g., such as ensuring adequate draft of combustion products through grate 12 if grate 12 completely overlies the heat source disposed below the grate. Maximum spacing "S" is empirically determined such that the top of flames 28 extend almost to a plane lying coincident with the upper surface 30 of rails 24. Thus, maximum spacing "S" is such that flames 28 do not directly contact food being cooked on top of rails 24 Scorching or blackening of the food is thereby inhibited. In the embodiment shown in FIG. 3, rails 24 have a height "H" and width "W" of 3/16 inch, and a spacing "S" therebetween of 1/8 inch." Emphasis added.

With the statements mentioned above, Campbell stresses that the width of the bars is of minor importance. But in the present application, both the spacing or opening and the width of the grill bars are important to prevent undesired flames and smells caused by the scorching fats or greases and to obtain the desired taste for the foods cooked on the grill. Furthermore, the top of the flames does not reach the food in Campbell because of the height of rails with respect to the heat source. So it can be understood that Campbell teaches that the important factor is the height of the rails. In addition, the measurements given by Campbell are not enough to make a grilled food

according to the teaching of the present application. The spacing between the bars of 1/8 inch (3.175mm) and a width of 3/16 inch (4.625mm) are insufficient to cook a foodstuff on the grill bars with heat spreading directly from the heat source. In particular, the spacing is too narrow to allow much penetration of heat into the food from between the grill bars.

Campbell further states that "FIG. 5 illustrates another embodiment of the present invention wherein spacing "S" is less than the empirically determined maximum spacing between rails 24. In the embodiment of FIG. 5, rails 24 have a width W of 3/16 inch, a height H of 3/8 inch and a spacing "S" between each of rails 24 of 1/8 inch. As shown, with such a configuration, flames 28 extend approximately half way through spacing "S", i.e., one half of the distance of height "H". Scorching or blackening of food being cooked on top of rails 24 is thereby inhibited."

In another embodiment of the Campbell prior art, the measures of the spacing between the rails are repeated. Thus, Campbell does not teach any interval other than the width and spacing (or opening) of the grill bars or rails given above.

Applicant believes that the width of the bars in Campbell would not allow the bars to be grooved, because the narrowness of the grill bars prohibits the formation of a groove thereon that would work to drain fat, and so there is no motivation to combine Campbell with the grooved bars of Quet. As discussed on page 3, paragraph 2 of the present application, if the grill bars have a width of less than approximately 5 mm it becomes difficult to accommodate liquids in the grooves and to drain them out. In any event, even if the teachings of Campbell and Quet were combined, it would not result in a brazier grill having all of the limitations of amended claim 1, because the claimed ranges are not taught by either reference.

For the foregoing reasons, claim 1 is believed to relate to patentable subject matter, and to be in condition for allowance. Claims 3 and 6 are also believed allowable because of their dependence upon an allowable base claim, and because of the further features recited.

II. Allowable Subject Matter

Claim 4 was indicated to be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Applicant has duly rewritten claim 4 in independent form, which is thus believed to be allowble.

III. Conclusion

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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